



STATE OF INDIANA

ERIC J. HOLCOMB, GOVERNOR

INDIANA
STATE ETHICS COMMISSION

MAY 10 2018

Indiana Department of Insurance

Stephen W. Robertson, Commissioner

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IC 4-2-6-11

Post-employment waiver

FILED

As the Appointing Authority of Indiana Department of Insurance ("Department"), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Wade Fulford in his post-employment with the law firm of Lewis Wagner ("Lewis Wagner").

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of
(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):

IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(o): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. (Please provide a brief description of the specific particular matter(s) to which this waiver applies below):

ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AGENCY SERVICES
317-232-2389

COMPANY COMPLIANCE
317-232-3495

CONSUMER SERVICES
317-232-2395/1-800-622-4461

FINANCIAL SERVICES
317-232-2890

MEDICAL MALPRACTICE
317-232-2402

COMPANY RECORDS
317-232-5692

STATE HEALTH INSURANCE PROGRAM
1-800-452-4800

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Out of an abundance of caution, this waiver is being requested for our employee, Wade Fulford currently serves as Deputy General Counsel for the IDOI. In this capacity he functioned as the Director of the Patients' Compensation Fund ("PCF"), an excess medical malpractice fund administered by the Commissioner. From 2012-2018, Wade has defended cases against the PCF after health care providers had settled for their underlying portion of liability. Several law firms are engaged by the PCF to defend medical malpractice claims including Lewis Wagner, Wade's potential employer. Wade does not have any authority over the contracting process as the Commissioner makes the final determination on the law firm's contracts. As director of the PCF, Wade assigned and oversaw cases in which Lewis Wagner defended the PCF. Lewis Wagner served as defense counsel for the PCF prior to Wade coming to the IDOI.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Wade, as Senior Counsel, would work for Lewis Wagner in the areas of healthcare, medical malpractice, tort law, insurance defense and mediation services. He would provide legal services. He would provide legal services at a yearly salary of \$110,000.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Wade would likely have ongoing contact with the Department. Based upon the discussions with Lewis Wagner and Wade, all parties are aware of Wade's duties at the IDOI. These duties may concern issues related to medical malpractice defense and general matters regarding insurance regulation previously assigned to Lewis Wagner. It is unlikely, that any future contracts would involve decisions based on his previous work product.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The Department, state, and public benefit by having a former employee with significant knowledge of insurance regulation activities and medical malpractice defense of the PCF. His potential contributions align with the goals of the Department. This employee worked for the Department for almost eight years as a regulator and helping defend claims against the PCF. This will benefit consumers and qualified healthcare providers around the state. Furthermore, the State will not be able to attract and retain talented employees if long-term employees are not allowed to take the knowledge they built in service of the State and apply it elsewhere.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

Wade has a conditional employment offer from Lewis Wagner. Inability to accept the offer would deny his family substantial income. Furthermore, given the broad scope of the Department and Wade's various roles within it, it would be difficult for him to find suitable employment with his areas of expertise that would not necessitate a waiver request.

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.


Stephen W. Robertson, Commissioner DATE May 1, 2018

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

Cathleen Nine Altvog
Cathleen Nine Altvog

5-1-18
DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

James Clevenger
James Clevenger, Chair, State Ethics Commission

5/10/18
Date

Mall to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.

8103, 1 year 2018